

## **REMARKS**

Claims 1 and 4-9 are all the claims pending in the application.

### **I. Claim Rejections under 35 U.S.C. § 102**

The Examiner has rejected claims 1 and 4-9 under 35 U.S.C. § 102(e) as being anticipated by Uehira et al. (U.S. 6,880,254).

Regarding the above-noted rejection, Applicants note that Uehira does not qualify as prior art under 35 U.S.C. § 102(e). In particular, Applicants point the Examiner's attention to MPEP § 706.02(f)(1)(III), which depicts a flowchart for determining a 35 U.S.C. § 102(e) date for a U.S. patent that is based on an International Application.

In this regard, Applicants note that the U.S. application which resulted in U.S. Patent No. 6,880,254 to Uehira was the National Stage of International Application No. PCT/JP03/07599, which was filed on June 16, 2003, and which published as WO03/106953 on December 24, 2003 (see the front page of U.S. Patent No. 6,880,254). Regarding the above-noted WIPO publication (i.e., WO03/106953), Applicants note that this publication was not in the English language. Instead, the WIPO publication was published in Japanese.

Taking the above-noted facts into consideration, and turning to the flowchart shown in MPEP § 706.02(f)(1)(III), Applicants note that because (1) the above-noted International Application was filed after November 29, 2000, and (2) the WIPO publication was not in English, the U.S. patent to Uehira (i.e., U.S. 6,880,254) does not have a § 102(e) date. Instead, as explained in the flowchart shown in MPEP § 706.02(f)(1)(III), this reference is prior art only as of its publication date (i.e., April 19, 2005).

In this regard, Applicants note that because the filing date of the present application is August 31, 2004 (i.e., the International filing date of the present application), which is prior to the April 19, 2005 publication date of Uehira (U.S. 6,880,254), that the Uehira reference does not qualify as prior art against the present application.

Further, as noted above, the WIPO publication corresponding to the Uehira reference published as WO03/106953 on December 24, 2003, which is prior to the filing date of the

present application. Applicants note, however, that the priority date of the present application is September 2, 2003, and that a verified English translation of the priority document (JP 2003-309794) is being submitted herewith, thereby perfecting the foreign priority date of September 2, 2003. Accordingly, the WIPO publication corresponding to the Uehira reference also does not qualify as prior art against the present application.

In view of the foregoing, Applicants respectfully submit that because the Uehira reference applied by the Examiner does not qualify as prior art against the present application, that the rejection of claims 1 and 4-9 based on Uehira must be withdrawn.

## **II. Conclusion**

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may best be resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

Respectfully submitted,

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